

## **RESPONSE TO OFFICE ACTION MAILED 6/02/2004**

### **NOTICE OF COPENDING APPLICATION**

In accordance with MPEP 2001.06 (b), Applicant brings to the Examiner's attention that the present invention is a continuation-in-part of the following copending application of Application: 09/627,844, filed on July 28, 2000, issued as U.S. Patent #6,588,757 on July 08, 2003.

### **TERMINAL DISCLAIMER IN COMPLIANCE WITH 37 CFR 1.321 (C)**

I enclose herewith two Terminal Disclaimers To Obviate A Provisional Double Patenting Rejection Over A Prior Patent to overcome the rejection over my prior patents, #6,402,147 and #6,588,757.

### **REMARKS / ARGUMENTS**

**With respect to claims 1-18 which are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of U.S. Patent No. 6,402,147.**

The filing of two said Terminal Disclaimers To Obviate A Provisional Double Patenting Rejection Over A Prior Patent to overcome the rejection over my said prior patents should overcome the nonstatutory double patenting rejection on items 1 and 2 cited by the Examiner.

**With respect to claims 1 and 15 which are rejected under 35 U.S.C. 102(b) as being anticipated by Feola. I respectfully disagree with this conclusion. Reconsideration of the application under my arguments below is respectfully requested.**

Feola, many patented card games (#5,356,140, #5,685,774, #6,012,720, #6,402,147) invented before and after Feola, and my present invention all teach a method of playing a card game, which comprises one standard poker deck of 52 cards plus at least one joker. This common teaching is one of steps of a method of playing a card game, which is considered an insignificant element when it comes to compare any two games whether they are patentably identical, and apparently it does not make any two said games patentably identical as a whole; therefore, many card games with said teaching have been patented. The elements that I consider significant parts of a game are: (1) Must a wager or wagers be placed before or after cards are dealt? (2) How many rounds of betting are required? (3) How is a hand determined whether it wins, ties or loses? (4) How is a player's wager settled against a banker?

Feola teaches a poker game that requires several rounds of betting (Abstract): After a player making at least one initial wager so called Ante wager, a dealer deals himself or herself a plurality of cards and the player at least one card to form an initial partial hand; subsequently, the player views his or her initial hand and is given an opportunity to decide to play or fold his or her hand; if the player decides to play hand, then he or she is required to place a second wager which can be an equal amount to or greater amount then the initial wager and at least one card is dealt to him or her; if the player decides to fold his or her hand, he or she will forfeit

the Ante wager; again, then the player views the card or cards dealt after second wager, and is given another opportunity to decide to play or fold his or her hand; if the player decides to play hand, then he or she is required to place a third wager which can be an equal amount to or greater amount than the initial wager and at least one card is dealt to him or her; if the player decides to fold his or her hand, he or she will forfeit the Ante wager and the second wager; the player then qualifies for receiving a winning payout which is determined by comparing the player's best five cards with the dealer's best five cards after all hands have been dealt. Optionally, the player is allowed to wager a bonus bet (col. 11-13), wherein the player receives a bonus award if he or she receives one of certain predetermined hands, but if the player folds and does not play out his or her hand, he or she will lose his or her bonus wager even he or she receives one of said predetermined hands.

My present invention teaches a poker game that requires only one round of betting. After making a primary wager and an optional bonus wager, each player and the dealer is each dealt seven cards. The player's primary wager wins and is paid according to a predetermined primary bet pay table if the player's best 5-card hand is one of predetermined winning hands of the primary bet; and the player's bonus wager wins and is paid according to a predetermined bonus bet pay table if the player's best 5-card hand is one of predetermined winning hands of the bonus bet (Abstract).

Comparing the teaching of Feola and the teaching of my present invention, we can find many obvious differences, especially in the following areas:

- (1) Feola discloses that each player must make an Ante wager and an optional bonus wager to play the game; while my present invention discloses that each player must make a Primary wager and an optional bonus wager; the Ante and bonus wagers of Feola can lose before the hand has been played out, while the Primary and bonus wagers of my present invention can not lose before the hand has been played out.
- (2) Feola teaches that the dealer always is dealt seven cards while each player can be dealt at least one initial card for the first round of betting, total of five cards for the second round of betting, and a total of seven cards for the third round of betting; while my present invention teaches that the dealer and each player always are each dealt seven cards; my present invention shall be more fun to play for players because the more cards the players have the more cards the players can have for the enjoyment of reading cards.
- (3) Feola discloses that his game requires multiple rounds of betting while my present invention requires only one round of betting.
- (4) Feola requires successive decisions regarding decisions of folding hands or continuing to play out hands, while my present invention requires no such decisions.
- (5) Feola teaches that the player qualifies for receiving a winning payout of the game regarding to Ante wager, which is determined by comparing the player's best five cards with the dealer's best five cards after all hands have been dealt; while my present invention teaches that the player qualifies for receiving a winning payout of the Primary wager, which is **not** determined by comparing the player's best five cards with the dealer's best five cards.
- (6) In Feola, a player's bonus wager can lose due to the player folds his or her hand during the second or third round of betting, while in my present invention, the player's bonus wager does not lose due to such mentioned causes of Feola.

Accordingly, the obvious and huge differences between the teachings of Feola and my present invention shall overcome the rejections on claims 1 and 15, which are cited by the Examiner on the items 3 and 4.

**With respect to claims 2-14, 16 and 18 rejected under 35 U.S.C. 103(a) as being unpatentable over Feola. I respectfully disagree with this conclusion. Reconsideration of the application under my arguments below is respectfully requested.**

Often, the use of one or more jokers is intended to enhance the excitement of a particular game. Adding the same number of jokers to any two particular games does not necessarily make two said games identical. However, in some cases, adding one or more jokers to a particular game could produce more disadvantages than advantages. Such as a game that sits a plurality of players and provides and play with at least one standard poker deck of cards plus at least one joker, and deals each player nine or more cards. "The game sounds fun to play. But, I must tell you that it is impossible for any game analyst to figure its true odd, viable pay table and house advantage," said Stanley Ko, who is one of the most reliable game analysts in the United States. Another disadvantage is that since a game that includes at least one joker would create an astronomical number of possible combinations of five-card hands, a lot more combinations of hands than a game that does not include jokers, thus, it would be very time consuming for players to select their best 5-card poker hands from their nine or more dealt cards; therefore the use of jokers would slow down the game. The worst case is that a game includes more than one joker and requires a player's hand playing against the dealer's hand in a casino setting, because jokers are the key determining factor of winning a hand, players would constantly worry if the dealer has any jokers, and this would make the game less enjoyable to play.

Because the game of Feola requires a player's best five cards compared to the dealer's best five cards, adding more than one joker or wild card to the game of Feola would give it more disadvantages than advantages. On the contrary, my present invention does not require the player's best five cards compared to the dealer's best five cards, thus the players do not have to worry if the dealer has any jokers; hence, adding more than one joker or wild card to my present invention would enhance the excitement of it, the more jokers are added to it the more fun it is to play, thus adding jokers to my present invention shall enable the players see better hands more often, it definitely is an advantage.

Creating a novel card game that lasts and is accepted by both players and casinos is a very difficult task. And for this reason, only a small number of created card games are being played in casinos today. There are three major things on which gaming experts agree when it comes to making a successful card game: Simplicity, Excitement and Fairness. And my present invention possesses three said things. The Simplicity of my present invention derives from both its poker hand ranks, including the hand ranks that are considered as winning hands, are logically based on the cards it uses (e.g., there are 13 ranks of five of a Kind due to jokers are included and used as wild cards) and the rankings that are already familiar to players; it would have **not** simply been a casino business decision. The Excitement of my present invention derives from both providing players seven cards for the enjoyment of reading cards, and providing plenty but not an excessive number of jokers or wild cards for players to obtain the exciting feeling of receiving jokers or wild cards more often. The Fairness of my present invention derives from assigning payout odds to appropriate winning poker hand ranks that balances the house

advantage—great enough to give casinos a fair return on investment while not so large to give players the sense of winning.

it would have **not** simply been a casino business decision, because most casinos always prefer a game that yields a high house advantage.

Obviously, my present invention discloses a method of playing a card game which is novel and clearly defined over the prior art of Feola. Accordingly, the rejections over the cited items 5 and 6 are respectfully traversed.

**With respect to the patent of Dabrowski not relied upon is considered pertinent to this application.**

The patent of Dabrowski mainly teaches a method of playing any variation of draw poker, stud poker or Twenty-One on an electronic gaming machine (Abstract). It briefly disclose a method of playing a stud poker in a live casino table game, which can only be found in col. 8, lines 67 & 68, col. 9, lines 1-7, and claims 36-38. The live casino table game of Dabroski discloses that two hands are dealt from two separate decks of cards in each round of play and each hand has five cards (claim 36), not seven cards; and the value of each hand is based on each five dealt cards. My present invention teaches that typically two to seven hands of seven cards are dealt from one single deck of cards in each round of play and players select their best 5-card poker hand from their seven dealt cards; and the value of each hand is based on the best five cards out of each seven dealt cards. Obviously, my present invention discloses a method of playing a card game which is novel and clearly defined over the prior art of Dabrowski. Accordingly, the rejection over the cited items 7 is respectfully traversed.

### CONCLUSION

I believe that the submission of two said Terminal Disclaimers To Obviate A Provisional Double Patenting Rejection Over A Prior Patent and the foregoing Arguments are a complete response to the Office Action, they shall overcome all rejections over the cited prior art of records, and shall place my instant application in condition for allowance. I cordially invite the Examiner to contact me for a telephone interview regarding this case.

Respectfully submitted,



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Date: October 02, 2004.